



**REGULAR MEETING OF THE  
PLANNING & ZONING COMMISSION  
GEORGE A. PUREFOY MUNICIPAL CENTER  
COUNCIL CHAMBERS  
6101 FRISCO SQUARE BLVD.  
FRISCO, TEXAS 75034**

**6:30 PM**

**TUESDAY, MARCH 10, 2009**

**MINUTES**

**CALL TO ORDER**

Chairman	Dave Wilcox	Present
Vice Chairman	Christopher Moss	Present
Secretary	Bryan Johnson	Present
Commissioner	Stephen Hulsey	Present
Commissioner	Clint Richardson	Present
Commissioner	Will Russell	Present
Commissioner	Jeff Trykoski	Present

**1. Roll Call**

Chairman Dave Wilcox called the meeting to order at 6:31 p.m.

Representing staff were: John Lettelleir, director of Planning & Development Services; Scott Ingalls, Development Coordinator; Mike Walker, Sr. Planner; Suzanne Morgan, Planner; Richard Abernathy, City Attorney; Alyssa Sanders, Engineer in Training; Joel Fitts, Sr. Traffic Engineer; Mack Borchardt, Fire Chief; Paul Siebert, Deputy Chief; and Kristen Johnson, Administrative Assistant.

## **APPROVAL OF MINUTES**

2. Consider and act upon approval of minutes of the Planning & Zoning meeting on February 24, 2009.  
Commissioner Richardson made note of an error in the February 24, 2009 minutes, item 12. The motion was made by Richardson and seconded by Russell.  
Commissioner Richardson moved to approve the minutes with the correction.  
Commissioner Moss seconded the motion. Motion carries. Vote: 6-0. Minutes approved.

## **CONSENT AGENDA**

Commissioner Moss moved to approve Items 3 – 5. Commissioner Trykoski seconded the motion. Motion carries. Vote: 6-0. Minutes approved.

3. **Final Plat:** Frisco Recreation & Aquatic Facility, Wade Plaza Addition, Block A, Lots 1A and 1B (SPFP05-0062)  
**Owner(s):** City of Frisco & Champions United Holdings, LLC  
Two lots on 18.8± acres on the south side of Wade Blvd, 750± feet east of Preston Road. Zoned Planned Development-21-Office-1. Neighborhood #24. SM

### **REMARKS:**

The site plan and final plat for a city recreation and aquatic center on Lot 1A and gymnastics center on Lot 1B were approved by the Planning & Zoning Commission on March 14, 2006. Construction of the development is complete. Due to the expiration of the plat, it has been submitted for approval prior to recordation. The final plat dedicates all easements required for the development on the property.

### **RECOMMENDATION:**

Recommended for approval.

4. **Final Plat:** Fisd Career and Technology Center, Career & Technology Center Addition, Block A, Lot 1 (SPFP06-0055)  
**Owner(s):** Frisco Independent School District  
An Fisd public school facility on one lot, on 24.3± acres, on the southwest corner of Wade Boulevard and Ohio Drive. Zoned Two-Family (Duplex). Neighborhood #24. SM

### **REMARKS:**

The site plan and final plat for a public school facility were approved by the Planning & Zoning Commission on November 28, 2006. Construction of the development is complete. Due to the expiration of the plat, it has been submitted for approval prior to recordation. The final plat dedicates all easements required for the development on the property.

### **RECOMMENDATION:**

Recommended for approval.

5. **Site Plan and Final Plat:** Oak Tree Office Park, Block A, Lot 3 (SPFP08-0013)  
**Owner(s):** Preston/Wade, LP  
A self-storage facility on one lot on 4.9± acres on the west side of Preston Road, 260± feet south of Wade Boulevard. Zoned Commercial-1 with a Specific Use Permit (S-8) for a Storage Warehouse. Neighborhood #24. JE

**REMARKS:**

Site Plan

<b>Access:</b>	Access is provided from Preston Road.
<b>Cross access:</b>	Cross access is provided to the north and south.
<b>Parking:</b>	Parking is adequate.
<b>Screening:</b>	The developer will be using the rear of the storage buildings as a wall buffer and a living screen consisting of Nellie R. Stevens and Burford Hollies along west property line adjacent to residential zoning. The Planning & Zoning Commission approved this on the Preliminary Site Plan on November 25, 2008.
<b>Open space:</b>	Open space is adequate.
<b>Tree Preservation:</b>	The site does not contain any protected trees.
<b>Façade Plan:</b>	A façade plan has been submitted for review.
<b>Additional Information:</b>	The site plan complies with the preliminary site plan approved by the Commission on November 25, 2008 and with the standards of the Preston Road Overlay District.

Final Plat

The plat dedicates easements necessary for development of a storage facility on Lot 3. A revised conveyance plat dedicating easements for future development will need to be approved and filed prior to recordation of this plat.

**RECOMMENDATION:**

Recommended for approval subject to:

Site Plan

1. Staff approval of the façade plans.
2. Staff approval of the landscape plans.

Final Plat

1. Additions and/or alterations to the engineering plans as required by Engineering Services.
2. Approval of a revised conveyance plat.

**END OF CONSENT AGENDA**

**PUBLIC HEARINGS**

6. **Public Hearing:** Sign Ordinance Variance (V09-0003)  
**Owner(s):** Midland, LP, Frisco POB I, Ltd., Frisco Surgery Center  
A request for a variance to Section 1.01 (A) Monument (Internal) Sign of the Sign Ordinance to allow for a larger monument sign, described as Frisco

Medical Center, Block A, Lots 1A-5A, also described as 5601 Warren Parkway. Zoned Planned Development-30-Business Center. Neighborhood #34. SI Scott Ingalls reviewed staff comments with the commission and recommended approval.

Commissioner Mass moved to open the public hearing. Commissioner Richardson seconded the motion. Motion carries. Vote: 6-0.

Scott Ingalls reviewed staff comments with the commission and recommended approval.

Commissioner Mass moved to open the public hearing. Commissioner Richardson seconded the motion. Motion carries. Vote: 6-0.

Speaking for : Doug Mousel, Land Plan Development Corp.

Speaking against: None

There being no one else to speak Commissioner Moss moved to close the public hearing. Commissioner Hulseby seconded the motion. Motion carries. Vote: 6-0.

Following review and discussion, Commissioner Johnson moved to approve. Commissioner Hulseby seconded the motion. Motion carries. Vote: 6-0. Item approved.

#### **REMARKS:**

The property owners have submitted a variance request for five larger than permitted internal monument signs. See attached drawings. Also attached is the application and explanation provided by the applicant.

Under the requirements of the Sign Ordinance internal monument signs are limited to a maximum square footage of six square feet and a maximum height of thirty inches. The proposal is for signs that are 54 inches in height and 21 square feet in area. These signs will not be illuminated per the applicant. Internal monument signs are generally used to provide direction to drive-thru lanes, buildings, tenant, etc. in larger retail and office developments. In this specific situation the signs are needed to direct emergency vehicles and the public to urgent care and emergency room facilities as well as other medical offices.

The Sign Ordinance states the Commission shall determine that a request meets three of the following four criteria in order to approve a variance request. The four criteria are as follows with staff's comments on each of the criteria.

1. The proposed sign shall not adversely impact the adjacent property (visibility, size, etc.).

The proposed signs will not have an adverse impact upon adjacent properties. Four of the five signs are located interior to the lot or adjacent to other commercially zoned property. The fifth sign is proposed to be located adjacent to the subdivision to the southwest of the property. As the applicant has indicated that these signs will not be internally illuminated there should be no potential impact upon the subdivision.

2. The proposed sign will be of a unique design or configuration.

In comparison to other internal monument signs, the proposed signs are not of a unique design or configuration. While the signs will contain other information that is non-emergency related, the importance of safely guiding emergency vehicles as well as the general public on site makes the size of these signs necessary.

3. The special exception is needed due to restricted area, shape, the topography, or physical features that are unique to the property on which the proposed sign would be erected.

No special exception is needed due to restricted area, shape, topography, or physical features unique to the property. Due to the importance of safely guiding emergency vehicles on site makes the size of these signs necessary.

4. The special exception will substantially improve the public convenience and welfare and does not violate the intent of this ordinance.

Allowing for larger internal monument signs will improve the convenience and welfare of the public by providing clear and readable signage to direct people in the event of an emergency. This is especially true with the emergency room being located at the rear of the main building. In staff's opinion it does not violate the intent of the Sign Ordinance.

It is staff's opinion that the request does meet all the four criteria specified by the Ordinance.

**RECOMMENDATION:**

Staff recommends approval of the variance request.

**7 Public Hearing: Zoning Case (Z08-0016)**

**Owner(s):** Trike Investors, L.P.

A request to rezone 22.3± acres on the southeast corner of John Hickman Parkway and the Dallas North Tollway **from** Commercial-1 **to** Planned Development-Retail/Office-2. Neighborhood #30. MW Tabled: 12/09/08, 01/27/09, 02/24/09. Mike Walker reviewed staff comments with the Commission and recommended approval.

Commissioner Hulsey moved to remove the item from the table. Commissioner Russell seconded the motion. Motion carries. Vote: 6-0.

Commissioner Trykoski moved to open the public hearing. Commissioner Moss seconded the motion. Motion carries. Vote: 6-0.

Speaking for: Frank Abbott, Kimley-Horn.

Speaking against: None.

There being no one else to speak Commissioner Moss moved to close the public hearing. Commissioner Johnson seconded the motion. Motion carries. Vote: 6-0.

Following review and discussion, Commissioner Trykoski moved to approve.

Commissioner Russell seconded the motion. Motion carries. Vote: 6-0. Item approved.

**HISTORY:**

**Ordinance No. 84-02-01** – City Council adopted Ordinance No. 84-02-01 on February 7, 1984, which annexed the property and zoned it Commercial-1.

**CASE OVERVIEW:**

**This item must be removed from the table.**

This item was tabled at the February 24, 2009 Planning & Zoning Commission meeting to allow staff and the applicant to research a previous agreement regarding Floor Area Ratio (FAR) allowed for the Planned Development. That decision has now been included in staff's recommendation.

The applicant is requesting to rezone the property to allow for an office development. The surrounding land uses are as follows:

Direction	Land Use	Zoning	Comprehensive Plan
North	Vacant	Commercial-1	Mixed-Use Non-Residential

<b>East</b>	Vacant	Office-2	Mixed-Use Non-Residential
<b>South</b>	Vacant	Office-2	Mixed-Use Non-Residential
<b>West</b>	Vacant	Planned Development-30-Business Center	Mixed-Use Non-Residential

### **The 2006 Comprehensive Plan**

**Natural Resources** – The Comprehensive Plan does not identify any floodplain/wetland or unsuitable soils or topography on the property. The Comprehensive Plan does identify an area of sensitive habitat in association with the stands of trees on the property. A general tree survey has been submitted with the zoning request that shows several large trees on the property; mostly Hackberry and American Elm. The applicant is working with staff to preserve as many of the protected trees as possible. A detailed tree survey and tree preservation plan will be required with the site plan/final plat submittal. Any required mitigation will occur at that time.

**Future Land Use Plan** – The Future Land Use Plan (FLUP) designates mixed-use non-residential uses on this property. While the request for office zoning does not comply with the FLUP, mixed-use developments require connectivity with other dense mixed-use developments as to not become isolated developments. The applicant and the adjacent property owner had a design charrette on December 18, 2007 to discuss the possibility of combining their tracts to create one cohesive mixed-use development. The adjacent property owner decided that keeping the Office-2 zoning they had was more suited to the type of development they were looking for. After the charrette, the applicant for this property began discussions with staff on creating a restaurant, hotel, and office site in a walkable setting around a water feature.

**Parks, Recreation & Open Space Master Plan** – An off-street hike and bike trail is shown on the Hike & Bike Master Plan along Dallas Parkway. The applicant is proposing an eight-foot trail adjacent to Dallas Parkway.

**Livability Strategy** – The proposed development meets the goals of Livability Strategy 6 – “Create Attractive Streets with Views & Walkability”, Livability Strategy 7 – “Design Streets So That Desired Speed Will Be Achieved”, and Livability Strategy 15 – “Ensure That Retail Areas are Pedestrian Friendly”. The proposed collector (labeled as Street A on the zoning exhibit) is being designed as a 25 mile-per-hour roadway that will provide access throughout the development. To encourage a pedestrian-friendly development, the collector will contain a speed table (a raised portion of decorative pavement similar to Frisco Square Blvd. in front of City Hall) with pedestrian crossings from the hotel site on the south to the restaurant sites on the north.

### **Transportation Strategy**

- **The Thoroughfare Plan** – The Thoroughfare Plan shows the Dallas North Tollway, a Highway/Tollway adjacent to the site. John Hickman Parkway will ultimately be constructed as a four lane divided minor thoroughfare on the north side of the property.
- **Traffic Impact Analysis** – Based on the current zoning and the requested zoning, staff determined that a Traffic Impact Analysis (TIA) was not required as this request will not drastically increase traffic.
- **Access** – Access to the development will be provided primarily from Dallas Parkway and John Hickman Parkway. Secondary access will be provided via John Hickman Parkway over to Parkwood Drive to the east. Cross access is provided to adjacent properties for future extensions.

### **Existing Utilities**

- **Water** – There is a 12-inch waterline along Dallas Parkway. Service will need to be extended into the site at the time of development.
- **Sanitary Sewer** – A 12-inch sanitary sewer stub-out was constructed along John Hickman Parkway as part of the Dallas North Tollway construction. Off-site easements will need to be secured to extend service into the site at the time of development.

**Schools** – This property lies within the Frisco Independent School District. Frisco Independent School District has not indicated an immediate need for a school in this area.

### **Additional information**

Maximum Number of Pad Sites – The Zoning Ordinance specifies a maximum number of pad sites (sites containing buildings less than 6,000 square feet) to one per five acres or portion thereof. Based on the net acreage of this site (17.9± acres), the maximum number of pad sites would be limited to three. While it has not been determined the exact size of the restaurants proposed, the applicant would like the flexibility to have smaller restaurants as shown on Exhibit “D”. Staff recommends that this restriction be removed for this property based on the following:

- The intent of the pad site restrictions in the Zoning Ordinance was to limit the number of pad sites along a roadway in front of a retail center that reduce visibility to the anchor tenant(s).
- This development will have frontage on three public roadways – Dallas Parkway, John Hickman Parkway, and Street A – providing visibility to all of the individual properties.
- The applicant has created a walkable development with restaurant uses surrounding a water feature amenity.

Limiting Number of Drive-Thru Restaurants – Under Retail and Office-2 zoning, restaurants with drive-thru lanes are permitted by right. Staff and the applicant agreed to limit the number of drive-thru restaurants based on the following:

- The intent of the applicant is to create a walkable environment built around the water feature. Allowing drive-thru restaurants in this environment would decrease the pedestrian-friendly nature of this development.
- Limit the drive-thru restaurant to a pad site along Dallas Parkway where an auto-oriented use is more appropriate.

#### **SUMMARY:**

The applicant is requesting to rezone the property to Planned Development-Retail/Office-2. Staff supports this request as it creates a walkable environment while creating a focal point to the site with the restaurants oriented towards a water feature.

#### **RECOMMENDATION:**

Recommended for approval as Planned Development-Retail/Office-2 subject to the following development standards:

#### **EXHIBIT “C” PLANNED DEVELOPMENT STANDARDS**

The property shall develop under the provisions of the Retail (R) and Office-2 (O-2) District standards as outlined in the Comprehensive Zoning Ordinance No. 00-11-01, as it exists or may be amended, subject to the following conditions:

1. Up to seven (7) pad sites will be allowed in the Planned Development. Pad sites are defined as sites with buildings less than 6,000 square-feet.
2. One restaurant with drive-thru shall be permitted within the Planned Development at a location with frontage on Dallas Parkway, south of Street A.
3. Setbacks shall follow the requirements set forth in the Retail (R) Zoning District. Sites with buildings greater than two-stories shall follow the setback requirements set forth in the Office-2 (O-2) Zoning District.
4. Maximum Floor Area Ratio (FAR): 4:1.
5. A speed table with decorative pavement shall be constructed along Street A as shown on Exhibit “D”.
6. Street A shall be designed with a 25-mile per hour speed limit criteria and a 31-foot cross section (back of curb to back of curb).
7. The zoning exhibit attached and incorporated into this Exhibit “D” shall serve as a guide for the

development of the Property. Any changes to the layout of the development shall be approved by the Director of Planning & Development Services. The applicant may appeal, in writing, the Director's decision to the Planning & Zoning Commission within ten (10) days of the date of the Director's decision.

8. **Preliminary Site Plan & Conveyance Plat:** Trike Hickman Addition (PSPCP08-0016)

**Owner(s):** Trike Investments, L.P.

Seven restaurants, a bank, a hotel, and an office building on 10 lots on 17.9± acres on the southeast corner of John Hickman Parkway and Dallas Parkway. Zoned Commercial-1. Neighborhood #30. MW

Mike Walker reviewed staff comments with the Commission and recommended approval.

Commissioner Moss moved to remove the item from the table. Commissioner Johnson seconded the motion. Motion carries. Vote: 6-0.

Following review and discussion, Commissioner Hulsey moved to approve.

Commissioner Richardson seconded the motion. Motion carries. Vote: 6-0. Item approved.

**REMARKS:**

Preliminary Site Plan:

<b>Access:</b>	Access is provided from John Hickman Parkway, Dallas Parkway, and Street A.
<b>Cross access:</b>	Cross access is provided to the properties to the east and south.
<b>Parking:</b>	Parking is adequate.
<b>Screening:</b>	Screening is not required.
<b>Tree Preservation:</b>	A tree survey will be required at the time of site plan/final plat.
<b>Open space:</b>	Open space is adequate.
<b>Façade Plan:</b>	Preliminary façade plans have been submitted for staff review.
<b>Additional Information:</b>	A zoning request has been submitted in conjunction with this preliminary site plan. Due to the proposed height of the hotel and office building, approval of the preliminary site plan will be subject to approval of the zoning request for PD-Retail/Office-2.

Conveyance Plat:

The purpose of the conveyance plat is to divide the property into 10 lots and dedicate right-of-way for Street A.

**RECOMMENDATION:**

Recommended for approval subject to:

Preliminary Site Plan:

1. Staff approval of the Preliminary Façade Plan.
2. City Council approval of Zoning Case Z08-0016.

Conveyance Plat:

As submitted.

9. **Public Hearing:** Zoning Case (Z09-0002)

**Owner(s):** Texas Univest

A request to amend Planned Development-112 regarding permitted uses on a 9.9±



acre tract of land out of a total of 40.1± acres located on the northwest corner of Stonebrook Parkway and Dallas Parkway. Zoned Planned Development-112-Commercial-1. Neighborhood #22. MW

Mike Walker reviewed staff comments with the Commission and recommended approval.

Commissioner Richardson moved to open the public hearing. Commissioner Moss seconded the motion. Motion carries. Vote: 6-0.

Speaking for: Pieter Kessels, Texas Univest Frisco, Ltd.

Speaking against: None.

There being no one else to speak Commissioner Moss moved to close the public hearing. Commissioner Trykoski seconded the motion. Motion carries. Vote: 6-0.

Following review and discussion, Commissioner Richardson moved to approve.

Commissioner Moss seconded the motion. Motion carries. Vote: 6-0. Item approved.

#### **HISTORY:**

**Ordinance No. 85-11-05** – City Council adopted Ordinance No. 85-11-05 on November 19, 1985 creating a Planned Development District on 1,246.5± acres of land. The subject property was zoned Office.

**Ordinance No. 93-05-11** – City Council adopted Ordinance No. 93-05-11 on May 18, 1993 rezoning 1,053± acres of land. The subject property was zoned Commercial.

**Ordinance No. 99-03-13** – City Council adopted Ordinance No. 99-03-13 on March 2, 1999 rezoning 1,053± acres of land. The property was broken up into 26 Planned Developments. The subject property was zoned Planned Development-112-Commercial-1.

**Resolution No. 08-11-248R** – The City Council adopted Resolution No. 08-11-248R on December 4, 2008 authorizing the City Manager to execute a development agreement with Texas Univest for a 9.9± acre tract of land within Planned Development-112.

#### **BACKGROUND:**

The owner of the property received a Corp of Engineers Nationwide Permit ("USCE Permit") which allows them to make improvements to the property to mitigate creeks and drainage ways. The USCE Permit has a definitive date by which these improvements must be made (March 9, 2009), otherwise, the developer loses the permit.

In order to obtain a pre-development grading permit from the City, the owner of the property entered into a development agreement with the City. One of the conditions of the development agreement was that the City has the right to amend the planned development to remove certain permitted uses from this portion of the planned development.

#### **CASE OVERVIEW:**

The surrounding land uses are as follows:

Direction	Land Use	Zoning	Comprehensive Plan
North	Vacant	PD-125-Commercial-1	Office
East	Vacant	PD-113-Commerical-1	Office
South	Retail	PD-128-Multifamily-2/Commercial-1	Retail
West	Single Family	PD-103-Single Family	Residential

The City is exercising its authority under the provisions of the development agreement to initiate a rezoning on the property to eliminate certain uses from the Planned Development. The uses eliminated by this amendment only apply to the 9.9± acre tract of land governed by the development agreement as shown on Exhibit "D". The uses eliminated are as follows:

- Apparel Distribution Centers
- Auto Laundries/Car Wash Facilities
- Automobile Parking Lots and Parking Garages (Paid)
- Automobile Sales, Service and Leasing – New and Used
- Billboard and Advertising Signs
- Commercial Amusement Enterprises (Outdoor)
- Distribution Centers and Showrooms
- Food Product Distribution Centers
- Office Showroom Facilities
- Radio and Television Studios and Broadcasting Facilities
- Service Stations (full service)
- Small Machinery Sales and Leasing
- Small Truck Sales and Leasing
- Storage Facilities (incidental to the primary, permitted uses)

Staff is recommending that the permitted uses for the 9.9± acre tract (Tract C-1b) be amended to reflect the prohibited uses as outlined in the attached development agreement (Resolution No. 08-11-248R).

#### **RECOMMENDATION:**

Staff recommends approval of the request, subject to the following conditions. Prohibited uses in Tract C-1b are denoted with an "x".

#### **EXHIBIT "C"** **PLANNED DEVELOPMENT STANDARDS**

##### **1.0 Planned Development – Commercial-1** **Tract C-1 (40.12 acres)**

##### **1.02 Permitted Uses:** The following uses shall be permitted in the commercial areas as indicated as Tract C-1 on Exhibit "C":

<b>Use</b>	<b>Tract C-1a</b>	<b>Tract C-1b</b>
Antique Shops – Indoor Display Only	<b>P</b>	<b>P</b>
Apparel Distribution Centers	<b>P</b>	<b>X</b>
Appliance Stores	<b>P</b>	<b>P</b>
Artist Materials and Supplies	<b>P</b>	<b>P</b>
Auto Laundries/Car Wash Facilities	<b>P</b>	<b>X</b>
Auto Parts Sales – No Outdoor Storage/Display	<b>P</b>	<b>P</b>
Automobile Parking Lots and Parking Garages	<b>P</b>	<b>X</b>
Automobile Sales, Service, and Leasing – New and Used	<b>P</b>	<b>X</b>
Baby Shops	<b>P</b>	<b>P</b>
Bakery and Confectionery Shops	<b>P</b>	<b>P</b>
Banks, Savings and Loan and Credit Unions	<b>P</b>	<b>P</b>
Banks, Savings and Loan and Credit Unions – With Drive-Thru Services	<b>P</b>	<b>P</b>
Barber/Beauty Shops	<b>P</b>	<b>P</b>
Beverage Stores – In accordance with other applicable City of Frisco, Texas Ordinances as the presently exist or may be amended	<b>P</b>	<b>P</b>
Billboard and Advertising Signs – Permitted in compliance with the City of Frisco, Texas' Sign Ordinance as it presently exists or may be amended	<b>P</b>	<b>X</b>
Book and Stationary Shops	<b>P</b>	<b>P</b>
Bus Stops	<b>P</b>	<b>P</b>
Business Services	<b>P</b>	<b>P</b>

Cafeterias	P	P
Camera Shops	P	P
Candy and Cake Shops	P	P
Catering Establishments	P	P
Churches/Rectories	P	P
Cleaning, Dyeing, Pressing, Pick-up and Collection Agencies	P	P
Clothing, Footwear, and Textile Centers	P	P
Collection Agencies	P	P
Commercial Amusement Enterprises – Indoor and Outdoor (Excluding Drive-In Theaters)	P	X (outdoor prohibited)
Computer Centers – Including, but not limited to: Texas Instruments, EDS, Intecom, IMB, Mr. Micro, Moore Business Products, Computuerland, Compaq, Fujitsu, Hewlett Packard, NEC, ComputerCraft, MicroAge, etc.	P	P
Computer Sales and Repairs	P	P
Computer Training Facilities	P	P
Concrete Batching Plants – Temporary and incidental to on-site construction	P	P
Convenience Stores	P	P
Convenience Stores – With Gas Service	P	P
Convention Facilities	P	P
Copy Service (i.e. Quick Copy)	P	P
Corporate and Professional Office Facilities and Headquarters	P	P
Curio and Gift Shops	P	P
Dairy Products and Ice Cream Stores	P	P
Delicatessens	P	P
Department Stores	P	P
Dinner Theaters	P	P
Distribution Centers and Showrooms – No outdoor storage unless screened	P	X
Draper Shops	P	P
Dress Shops	P	P
Drug Stores/Pharmacies	P	P
Dry Goods Stores	P	P
Electronic Product Sales	P	P
Electronic Security Facilities	P	P
Feed Stores	P	P
Financial Institutions	P	P
Fitness and Health Centers	P	P
Florist and Garden Shops	P	P
Food Product Distribution Centers	P	X
Fraternal Organizations, Lodges and Civic Clubs	P	P
Funeral Homes and Mortuaries	P	P
Furniture and Upholstery Centers – Including Repairs	P	P
Furniture, Home Furnishings and Equipment Showrooms and Sales	P	P
Furniture Stores	P	P
General Merchandise Stores	P	P
Governmental and Utility Agencies, Offices, and Facilities – No outdoor storage unless screened	P	P
Greenhouse and Nursery Facilities – Sales Permitted	P	P
Grocery Stores and Supermarkets	P	P
Guard and Patrol Services	P	P
Hardware and Building Materials Stores – No outdoor storage unless screened	P	P
Health Product Sales	P	P
Hospitals and Emergency Centers	P	P
Hotels and Motels	P	P
Household Appliance Services and Repairs	P	P
Interior Decorating Stores	P	P
Jewelry Stores	P	P
Key Shops/Locksmiths	P	P

Laboratories – Testing and Experimentation – Emissions of hazardous or toxic chemicals shall be prohibited	P	P
Laundromats	P	P
Laundry and Dry Cleaning Establishments	P	P
Leather Goods Shops	P	P
Meat Markets – No Slaughter Houses or Packing Plants	P	P
Medical Equipment Showrooms	P	P
Medical and Health Care Facilities/Clinics	P	P
Medical Offices	P	P
Messenger/Courier and Telegraph Services	P	P
Municipal Buildings and Facilities	P	P
Museums, Libraries, Art Schools and Art Galleries	P	P
Musical Instrument Sales	P	P
Newspaper and Magazine Sales	P	P
Newspaper Printing Centers	P	X
Novelty/Notion Stores	P	P
Office – Professional, Administrative and General Offices – Including, but not limited to, doctors, optometrists, psychiatrists, attorneys, architects, engineers, planners, travel agents, advertising, insurance and real estate offices	P	P
Office Showroom Facilities – Sales Permitted	P	X
Office Businesses	P	P
Office Equipment Repairs and Maintenance	P	P
Office Supplies and Sales	P	P
Optical Stores – Sales and Services	P	P
Paint Stores	P	P
Parks, Playgrounds, Recreational Facilities and Community Centers	P	P
Pest Control/Exterminating Shops – Emissions of hazardous or toxic chemicals shall be prohibited	P	P
Pet Grooming and Supplies	P	P
Pet Shops	P	P
Photographic Services	P	P
Play Equipment – Sales and Display	P	P
Post Office Facilities	P	P
Printing and Duplicating Establishments	P	P
Private Club Facilities – In accordance with other City of Frisco, Texas Ordinances as they presently exist or may be amended	P	P
Radio and Television Sales and Services	P	P
Radio and Television Studios and Broadcasting Facilities	P	X
Recreation Centers - Public and Private	P	P
Restaurants	P	P
Restaurants – With Drive-In/Drive-Thru Service	P	P
Retail Sales	P	P
Retail Shops and Stores	P	P
Schools – Public or State Accredited	P	P
Scientific/Research Facilities – Emissions of hazardous or toxic chemicals shall be prohibited	P	P
Securities and Commodities Offices – Including but not limited to, brokers, dealers, underwriters, exchange offices and similar offices	P	P
Service Stations – Full Service (Including Bays)	P	X
Service Stations – Self Service	P	P
Sewing Machine Sales and Services	P	P
Shoe and Boot Sales and Repair Stores	P	P
Shopping Centers/Malls	P	P
Sign Sales – Sign installation to be in compliance with the City of Frisco, Texas' Sign Ordinance as it presently exists or may be amended	P	P
Small Machinery Sales and Services – Service and repair facilities to be under roof and enclosed	P	X
Small Truck Sales and Leasing	P	X

Specialty Shops and Boutiques	P	P
Sporting Goods Sales	P	P
Storage Facilities (incidental to the primary, permitted uses)	P	X
Studios – Art, Photography, Music, Dance, Gymnastics, Health, etc.	P	P
Tailor Shops	P	P
Theaters – Indoor	P	P
Theatrical Centers	P	P
Tire Dealers – No Outdoor Storage	P	P
Toy Stores	P	P
Trade and Commercial Schools	P	P
Travel Bureaus	P	P
Trophies and Award Shops	P	P
Utility Distribution Systems and Facilities	P	P
Variety Stores	P	P
Veterinarian Clinics and Kennels – Limited to Small Animals (No Outside Runs)	P	P
Watch Making Shops	P	P
Accessory buildings and uses customarily incident to the permitted uses. Temporary buildings and uses incidental to construction work on the premises to be removed upon completion or abandonment of construction work	P	P
Uses similar to the above-mentioned permitted uses, provided the Frisco City Council approves said uses prior to the issuance of a building permit	P	P

## **END OF PUBLIC HEARINGS**

### **10. Preliminary Plat: Latera Phases 2-A & 2-B (PP06-0017)**

**Owner(s):** Creekside Land Company, Ltd.

77 Cluster Home lots and five open space lots on 48.3± acres on the east side of Preston Road, 100± feet north of Vita Dolce Drive. Zoned Planned Development-2-Business Park/Neighborhood Commercial/Residential Village. Neighborhood #9. SM

Suzanne Morgan reviewed staff comments with the Commission and recommended approval.

Commissioner Richardson moved to open the public input session.

Commissioner Hulsey seconded the motion. Motion carries. Vote: 6-0.

Speaking for: Terry Holmes, Creekside Land Company  
Randall P. Pogue P.E., Pogue Engineering

Speaking against: None.

There being no one else to speak Commissioner Trykoski moved to close the public input session. Commissioner Moss seconded the motion. Motion carries. Vote: 6-0.

Following review and discussion, Commissioner Moss moved to approve.

Commissioner Hulsey seconded the motion. Motion carries. Vote: 6-0.

Request approved.

### **REMARKS:**

#### **Access:**

Access is provided from Preston Road and Eldorado Parkway through Latera, Phase 1. The entrances at Preston Road and Eldorado Parkway are gated. Access to Blitz Drive is proposed to be gated. Being a minor roadway, a turn around is not required. The one lot that

has access to Blitz Drive is vacant and will have to develop with the front facing onto Stancil Lane rather than Blitz Drive so that it can have fire access, but a driveway onto Blitz Drive is permissible.

**Street stubs:**

No street stubs are provided as the adjacent property has been developed.

**Street Length:**

The roundabout at Vita Dolce and Toscana Way is an acceptable "offset" which will allow the street to extend up to another 2,000 feet beyond the roundabout (See Subdivision Ordinance 7.02.16).

The subdivision requires a variance to allow an over length cul-de-sac.

Over Length Cul-de-sac

The Subdivision Ordinance (Section 7.02.8.b) states that cul-de-sacs shall not exceed 600 feet in length. Palazzo Drive-Varese Court extends 975± feet northwest of Vita Dolce Drive.

No variance or waiver shall be granted unless the Planning & Zoning Commission finds:

**a. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his or her land.**

The cul-de-sac includes a bridge that crosses 395± feet of floodplain. When the length of the bridge is added to the length of the cul-de-sac, the cul-de-sac exceeds the 600 foot maximum length. No lots front on the street for the width of the floodplain. Allowing an over length cul-de-sac allows the applicant the ability to develop the property north of the floodplain.

**b. That the variance or waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the variance or waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area.**

There are sixteen lots on the over length cul-de-sac, of which nine lots are located north of the floodplain. The Fire Department has reviewed this cul-de-sac and determined that it is acceptable subject to the requirement that the homes on Block F, Lots 1 through 9 are fire sprinklered, that there be a looped water line due to the length of the street, and upon further review additional fire hydrants may be warranted.

**c. That the granting of the variance or waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this ordinance.**

The layout of the adjacent properties was approved in 2002. At that time, a variance was granted for the over length cul-de-sac in the Latera subdivision. The adjacent properties are now developed and granting this variance will not effect the development of surrounding lands.

**Screening:**

The property adjacent to Preston Road is designated as an open space lot and consists of floodplain. Screening requirements allow for the construction of a masonry wall or a solid landscape screen within a

25-foot landscape edge between the street and lots backing to the street. There is an existing screening wall with landscaping that was built with Latera Phase 1 that extends into Phase 2-A 200± feet. The remaining 210± feet of property adjacent to Preston Road has been landscaped with five deciduous trees and two eastern red cedar trees.

The applicant requests a variance from screening requirements for Phase 2A. No variance or waiver shall be granted unless the Planning & Zoning Commission finds:

**a. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his or her land.**

This development is unique in that there are no residential lots or alley backing to Preston Road; rather the street fronts an open space lot which provides views of the creek. Staff does not recommend extending the screening wall further north than it exists for the following reasons:

1. The topography would result in the placement of the screening wall below the grade of the lots and Preston Road,
2. The closest point between the right-of-way for Preston Road and the rear of lots is 200± feet. A screening wall would not serve any value because this distance and that the road and the lots are at different elevations,
3. We do not encourage screening walls that would obstruct the views of natural areas, and
4. Extending a screening wall or vegetation within the floodplain will obstruct the floodwaters.

**b. That the variance or waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the variance or waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area.**

The granting of this variance will not be detrimental to public safety but would prevent an obstruction to the floodwaters.

**c. That the granting of the variance or waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this ordinance.**

Granting a variance to the screening requirements will not affect the development of adjacent lands. Property to the north is zoned for non-residential use and is within a Drainage and Floodway Easement & Pedestrian and Sidewalk Easement; therefore, the screening would not continue to the north further than this Phase.

**Hike & Bike Trail:**

A Hike & Bike Trail is required through the open space to connect the trails to the north and south of this subdivision. The Subdivision Ordinance (Section 7.09.4) requires that Hike and Bike Trails be staked and approved by the Parks & Recreation Department prior to the submittal of a preliminary plat and that the location of the trail is to

be specified on the preliminary plat. The applicant was made aware of this requirement with the first review of the plan in September of 2006 but did not contact the Parks Department until February 2009, because the applicant stated he did not understand the urgency of the matter. This matter has not been resolved with Parks Department at the time this report was written.

**Major Creek:**

The property is located along Panther Creek and is subject to the Major Creek Ordinance, Section 7.08. The Ordinance does make an exception for the orientation of the lots if the property is within a Planned Development that has a concept plat. This Planned Development does not have a concept plan; therefore, the Major Creek Ordinance applies.

Section 7.08.c.3.a & b

Residential Development Criteria Along Major Creeks

- a. A minimum of sixty percent (60%) of the linear frontage of the Base Flood Plain and/or Access Dedication in each final plat shall have adjacent to it one (1) or more of the following types of streets (as generally depicted in Exhibit "B", attached hereto and incorporated herein for all purposes.)
  - (i) Parallel streets
  - (ii) Loop streets
  - (iii) Cul-de-sacs (more than two (2) consecutive cul-de-sacs without separation by a looped street or parallel street is prohibited). Refer to Section 7.09(13)(6) regarding access width to Base Flood Plain and/or Access Dedication.
  - (iv) Any lot that sides to the Base Flood Plain and/or Access Dedication shall have a side yard setback of fifteen (15) feet.
- b. A maximum of forty percent (40%) of the linear frontage of the Base Flood Plain and/or Access Dedication in each final plat may have lots backing to a Major Creek. When a lot backs to a Major Creek the following is required:
  - (i) Any lot that backs to the Base Flood Plain and/or Access Dedication shall have a rear yard setback of twenty-five (25) feet;
  - (ii) Alternating cul-de-sacs and looped streets shall be provided at intervals not to exceed twelve-hundred (1,200) feet for access to the Base Flood Plain and/or Access Dedication; and
  - (iii) The Base Flood Plain and/or Access Dedication shall be available to public access from the end of a cul-de-sac in the manner required in Section 7.09(13)(6).

Phase 2A of the proposed subdivision complies with having a minimum 60% of the linear frontage of the base flood plain adjacent to a street or side lot lines and a maximum 40% of the linear frontage of the base flood plain adjacent to rear property lines. The subdivision has approximately 66% linear frontage on streets and side property lines and approximately 33% linear frontage on rear property lines. The subdivision layout does not comply with the requirement that no more than two (2) consecutive cul-de-sacs without separation by a looped street or parallel street are allowed. Connecting the cul-de-sac streets Lazio Lane and Genova Court satisfies the requirement for alternating cul-de-sacs and looped streets.

The applicant requests a variance from this requirement so that the subdivision can be approved as shown with three cul-de-sacs.



The applicant's representative stated in the letter dated February 27, 2008, that the Ordinance is too restrictive for a private subdivision. The Major Creek Ordinance does not distinguish between a public versus private street subdivision. The letter also states that to provide this connection will eliminate two residential lots. At this time, the overall property is one large lot; providing this connection will result in a subdivision with two fewer lots than currently shown. Lots have already been reduced by the applicant between the previously approved Preliminary Plat and the proposed plat.

The applicant has requested to construct a trail between the cul-de-sac streets in lieu of a street connection. Staff does not support this request finding it does not meet the Ordinance. A street, rather than trail, provides access for citizens and for vehicles when maintenance is required within the creek or on the trail.

No variance or waiver shall be granted unless the Planning & Zoning Commission finds:

**a. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his or her land.**

Staff finds that there are no special circumstances which would deprive the applicant the use of the land and the development of the subdivision by providing the looped street. The applicant has stated that two lots would be lost to do so. The applicant has already removed lots from the subdivision from the previously approved plat, which has expired.

**b. That the variance or waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the variance or waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area.**

The granting of a variance will not deprive the applicant of the opportunity to develop the subject property. Providing a looped street will provide greater access throughout the subdivision and for maintenance and pedestrian and vehicular access to the creek. Based on the Detailed Tree Survey, it is likely to design the street in a manner so as to not require the removal of any trees.

**c. That the granting of the variance or waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this ordinance.**

The adjacent properties are developed; therefore, the granting of this variance will not effect the subdivision of other lands.

All other provisions of the Major Creek Ordinance, including, a twenty foot no-build and preservation easement, ornamental fencing adjacent to side and rear lot lines of those that side and back to the creek, and a maintenance and access dedication shall be provided.

**Additional information:**

The property complies with Planned Development-2 development standards but does not comply with the Major Creek Ordinance.

Latera, Phase 1 has experienced stream bank erosion due to channel movement. In an attempt to prevent further erosion a permit was obtained for a retaining wall. Not having received any request for inspections, an inspector visited the site and found that a wall had been constructed. The wall had been constructed in the creek, no inspections had been called for, and the wall was shorter than approved under the permit.

The proposed preliminary plat differs from the preliminary plat approved in December of 2002 as follows (See attached exhibit):

1. Reduction of three lots on Toscana Way.
2. Reduction of one lot on Lazio Lane and realignment of lots to provide frontage from the cul-de-sac to the open space.
3. Reduction of two lots on Genova Court and realignment of lots to provide frontage from the cul-de-sac to the open space.
4. Reduction of one lot on Vita Dolce Drive.

#### **BACKGROUND:**

November 1989 – Planned Development-2 was approved by City Council. This established the zoning of the property as Residential Village and permitted the property to have private street developments if approved at the time of preliminary plat.

August 26, 2002 – Application submitted for Preliminary Plat for Creekside at Preston (now called Latera) (PP02-0009).

December 10, 2002 – Planning & Zoning Commission approved PP02-0009. (See attached staff report.)

- A variance was granted by the Commission to allow an over length block of 1,630± feet, where 1,200 feet maximum length was required by Ordinance. The block was on Vita Dolce Drive and extended from Lazio Lane to Blitz Drive.
- A variance was granted by the Commission to allow an over length cul-de-sac of 820± feet, where 600 feet maximum length was required by Ordinance. The cul-de-sac was Palazzo Drive.

December 12, 2002 – City Council approved PP02-0009 to allow private streets.

June 10, 2003 – Planning & Zoning Commission approved FP03-0013 for Latera, Phase 1.

December 10, 2004 – PP02-0009 expires.

(The actions on the following three dates are from email records provided to staff by the applicant's representative in October 2008.)

April 25, 2006 – Staff Planner indicated to the applicant's representative, Brandon Cox, that there can be no more than two adjacent cul-de-sacs.

April 26, 2006 – Mr. Cox questioned the interpretation of the cul-de-sac requirement and stated that his client would like to keep the layout as shown.

April 26, 2006 – Staff Planner emailed Mr. Cox and indicated that Phase 2 of Latera could mirror Phase 1 and that three consecutive cul-de-sacs would be acceptable, provided that there is a wide opening at the end of two of the cul-de-sacs. The Staff Planner had no authority to approve such a variance.

July 24, 2006 – The Director of Engineering Services approved variances to increase the maximum street grades allowed due to the terrain of the property and the applicant's efforts to preserve trees on the property. Further variances were requested on August 20, 2007. At this time, all variances have been granted to allow the grades, tangent lengths, and vertical curves as shown on the final plat.

August 28, 2006 – Applications were accepted by the City for PP06-0017 and FP06-0031.

May 18, 2007 – After inactivity for a period of eight months, the applicant was given a 30-day case closure notification. The applicant replied via email on May 18, 2007 that the delay in redesigning the subdivision had been due to the slowing of the home market, but that efforts were being made to change grades to preserve trees. Based on this information, the case remained open.

June 28, 2007 – In response to a notification from Staff that the case would be closed, the applicant submitted a letter requesting a 30-day extension to the case closure letter, stating that he was working with the client to refine street and lot configurations in an attempt to save trees. The applicant was given until July 30, 2007 to provide revised plans.

September 19, 2007 – The applicant sent staff a notice of the project being on hold due to Engineering re-designs and pursuant of variance request for an over length cul-se-sac issues.

October 18, 2007 – The applicant, Mr. Cox, sent a letter to Cissy Sylo detailing variance requests and conditions for certain private streets in Latera, Phase 2.

April 28, 2008 – The applicant was sent another 30-day case closure letter.

May 19, 2008 – The applicant submitted revisions to the City.

July 7, 2008 – Staff submitted comments to the applicant.

September 11, 2008 – Staff requested revisions from the July 7, 2008 review.

October 1, 2008 – The applicant submitted revisions to the City.

October 17, 2008 – Staff submitted comments to the applicant. During the next month, staff worked with the applicant to resolve the items identified on the review. Staff has not received revisions since November 25, 2008, which was the date when the last correspondence was sent to the applicant regarding the Major Creek street requirement.

October 21, 2008 – Follow-up comments were submitted to Mr. Cox indicating that the subdivision was on a Major Creek and the Ordinance requirements would need to be met.

October 29, 2008 – Staff met with the applicant to discuss the looped street requirement. At that time, the applicant indicated that he would rather build a trail connection.

November 25, 2008 – Staff informed the applicant that a trail connection would not satisfy the Major Creek Ordinance requirements.

January 5, 2009 – A final case closure letter was sent to the applicant indicating that the project would proceed to the Planning & Zoning Commission and requesting revisions for this meeting. No revisions were submitted; therefore, the plans received on October 1, 2008 have been included in the staff report for review.

#### **RECOMMENDATION:**

Recommended for denial because:

1. Lack of compliance with the Subdivision Ordinance for residential development adjacent to a Major Creek.
2. Lack of coordination with the Parks Division regarding the location of the Hike & Bike Trail.
3. Lack of the submission of revised plans addressing all outstanding comments from the October 17, 2008 and March 4, 2009 plan reviews which include:
  - a. Compliance with the Major Creek Ordinance by connecting Lazio Lane and Genova Court.
  - b. Identifying the Pedestrian, Landscape Easement adjacent to all rights-of-ways.
  - c. Updating the plat to add all conditions regarding fire department requirements.
  - d. Addition of a floodplain statement.
  - e. Modification of the floodplain line on adjacent property to the north.

- f. Dimensioning the width of Lot 44 at the building line.
- g. Modifying the building lines on Lots 12, 13, and 36 of Block B.

11. **Final Plat:** Latera, Phase 2-A (FP06-0031)

**Owner(s):** Creekside Land Company, Ltd.

38 Cluster Home lots and two open space lots on 21.9± acres on the east side of Preston Road, 100± feet north of Vita Dolce Drive. Zoned Planned Development-2-Business Park/Neighborhood Commercial/Residential Village. Neighborhood #9. SM

Commissioner Moss moved to approve the applicant's waiver of his right to action within 30 days. Commissioner Hulsey seconded the motion. Motion carries. Vote: 6-0. Items approved.

**REMARKS:**

<b>Access is provided:</b>	Access is provided from Preston Road and Eldorado Parkway through Latera, Phase 1. The entrances at Preston Road and Eldorado Parkway are gated.
<b>Street stubs:</b>	A street stub is provided to the north for future development of Latera, Phase 2-B. A temporary turn-around will be constructed at the street stub and will remain until the street is extended.
<b>Screening:</b>	The portion of the property adjacent to Preston Road, which would require thoroughfare screening, is located within a floodplain. Screening is not required as this area is to be left in a natural state.
<b>Landscape Plan:</b>	A landscape plan is not required.
<b>Tree Preservation:</b>	There are protected trees located throughout the site. For those trees to be removed, tree mitigation is required in the amount of 412.5 caliper inches.
<b>Additional information:</b>	The Preliminary Plat has been reviewed and recommended for denial due to lack of compliance with Subdivision Ordinance requirements. (See PP06-0017 Staff Report).

**RECOMMENDATION:**

Staff recommends denial of the final plat for the reasons stated in the preliminary plat (previous agenda item #10 – PP06-0017).

**GENERAL INFORMATION**

12. Update on the results of the March 3, 2009 City Council meeting. SI  
Scott Ingalls updated the commission on the results from the March 3, 2009 City Council meeting.
13. The Planning & Zoning Commission shall enter into a closed executive session to consult with its City Attorney, as authorized by the Texas Open Meetings Act, Texas Government Code Section 551.071, to discuss individual liability for public officials.  
Commissioner Hulsey moved to go into executive session per Section 551.071
- Private consultation with the City Attorney at 7:39 p.m. Commissioner Moss seconded the motion. Motion carries. Vote: 6-0.
- Commissioner Hulsey moved to return to regular session at 8:02 p.m.  
Commissioner Russell seconded the motion. Motion carries. Vote: Unanimous.

14. Scheduling of future Discussion Items. SI  
There were no discussion items to add to a future agenda.
15. Review of Planning & Zoning Commission projects. SI

### **ADJOURN**

There being no further business, Commissioner Moss moved to adjourn the meeting at 8:04 p.m. Commissioner Hulseby seconded the motion. Motion carries. Vote: 6-0. Meeting adjourned.

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**Dave Wilcox, Chairperson**

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**Bryan Johnson, Secretary**

*(Please note these are preliminary meeting minutes and are not official until approved at the next scheduled meeting.)*